

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America, Plaintiff, v. Peter James Monson, Defendant.	Case No. 21-CR-44 (SRN/DTS) ORDER
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Peter James Monson, Reg. No. 32015-509, FCI-McKean, P.O. Box 8000, Bradford, PA 16701, Pro Se.

Katharine T. Buzicky, Craig R. Baune, and Laura Provinzino, Office of the United States Attorney, 300 South Fourth Street, Suite 600, Minneapolis, Minnesota 55415, for the Government.

SUSAN RICHARD NELSON, United States District Judge

This matter is before the Court on Peter James Monson's Pro Se Petition for En Banc/Panel Rehearing of the District Court's Denial of Mr. Monson's Motion to Vacate Under 28 U.S.C. § 2255 [Doc. No. 112].

The motion before the Court is a re-filing of the same petition filed by Mr. Monson on January 22, 2024. (*Compare* [Doc. No. 112] *with* [Doc. No. 107].) The Court denied that petition on March 14, 2024 (March 14, 2024 Order) [Doc. No. 109]. Along with his renewed petition, Mr. Monson filed a letter to the Court explaining his reasons for re-filing. (Pro Se Response [Doc. No. 111].) He takes issue with the fact that the Court's March 14, 2024 Order construed his petition as a second or successive habeas petition under 28 U.S.C.

§ 2255, and denied the petition in part on that basis. He explains that the intent of his petition is to seek appellate review of this Court's December 20, 2023 Order [Doc. No. 105] by the Eighth Circuit Court of Appeals. He is not seeking any relief from this Court.

As the Court explained in its March 14, 2024 Order, the statute clearly states that Mr. Monson cannot obtain appellate review without permission. "Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from . . . the final order in a proceeding under section 2255." 28 U.S.C. § 2253(c)(1). This Court declined to issue a certificate of appealability in both its December 20, 2023 Order and its March 14, 2024 Order.

The Court also explained in its March 14, 2024 Order that only the Eighth Circuit Court of Appeals can entertain an appeal from this Court's orders. If Mr. Monson wishes to pursue appellate review of the Court's order, he must file a notice of appeal and then request a certificate of appealability from the Eighth Circuit. This Court, however, will not revisit either the decision to deny his motions under § 2255 or the decision not to issue a certificate of appealability.

Accordingly, based on the submissions and the entire file and proceedings herein, and for the reasons previously stated in the Court's March 14, 2024 Order [Doc. No. 109], **IT IS HEREBY ORDERED** that Mr. Monson's Pro Se Petition for En Banc/Panel Rehearing of the District Court's Denial of Mr. Monson's Motion to Vacate Under 28 U.S.C. § 2255 [Doc. No. 112] is **DENIED**.

Dated: April 11, 2024

/s/ Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge